

Mitchel T. Rice, No. 6022
Andrea M. Keysar, No. 12139
Marianne Schumann, No. 14781
MORGAN, MINNOCK, RICE & MINER, L.C.
Kearns Building, Eighth Floor
136 South Main Street
Salt Lake City, Utah 84101
Telephone No.: (801) 531-7888
Facsimile No.: (801) 531-9732
Email: mrice@mrm.com

Attorneys for Defendant Walmart Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

VANIA SCHMIDT, an individual,

Plaintiff,

vs.

WALMART INC., a Delaware Corporation,
and JANE DOE, an individual,

Defendants.

NOTICE OF REMOVAL

Case No. 2:21-cv-00212-JCB

Magistrate Judge Jared C. Bennett

NOTICE IS HEREBY GIVEN that Defendant, Walmart Inc., by and through its Counsel of record, hereby removes this action from the Third Judicial District Court, Salt Lake County, State of Utah, to the United States District Court, District of Utah, Central Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully states as follows:

1. Plaintiff, Vania Schmidt, filed this civil action, Case Number 200902589, against Defendant in the Third Judicial District Court, Salt Lake County, State of Utah, on or about April 7, 2020. (A copy of the Complaint is attached as Exhibit “A”).

2. Defendant was served on or about March 17, 2021. (A copy of the Summons is attached as Exhibit “B”).

3. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because Defendant has (1) satisfied the procedural requirements for removal, and (2) this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332.

4. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Counsel for Plaintiff, and a copy is also being filed with the Clerk of the Court for the Third Judicial District Court.

5. With respect to diversity, the citizenship of the Parties is diverse in this action.

6. According to the Complaint, Plaintiff, Vania Schmidt, was at the time of commencement of this action a resident of Salt Lake County, State of Utah. (Complaint ¶ 1, Exhibit “A”).

7. Plaintiff is not, and never has been, domiciled in Delaware or Arkansas.

8. Defendant, Walmart Inc., is and was at the time of commencement of this action a Delaware Corporation with its principal place of business in Bentonville, Arkansas.

9. Based on the foregoing, there is complete diversity between the Parties.

10. With respect to the amount in controversy, Plaintiff designated this action as “Tier Three” for purposes of Discovery under Utah Rule of Civil Procedure 26(c), demonstrating that Plaintiff is alleging damages in excess of \$300,000. (Complaint, Exhibit “A”).

11. With respect to the amount in controversy, Plaintiff has alleged that she sustained physical injuries and has claimed special and general damages, interest and other relief. (*Id.*, Prayer for Relief, Exhibit “A”).

12. Based on the foregoing, Plaintiff’s alleged injuries and damages are sufficient to support a claim in excess of \$75,000, and thereby satisfy the requisite amount in controversy for removal of this case. *McPhail v. Deere & Comp.*, 529 F.3d 947, 956 (10th Cir. 2008)(“A complaint that presents a combination of facts and theories of recovery that may support a claim in excess of \$75,000 can support removal.”).

13. Due to the complete diversity of the Parties to this action, and the amount in controversy in excess of \$75,000, this case meets the requirements for removal to Federal Court pursuant to 28 U.S.C. § 1332.

14. Venue is proper in the United States District Court, District of Utah, Central Division, because the lawsuit was filed in Salt Lake County, State of Utah.

15. Defendant’s request for removal is properly made within 30-days of receipt of the Summons and Complaint by Defendant.

WHEREFORE, Defendant respectfully removes this action from the Third Judicial District Court, Salt Lake County, State of Utah, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully requests that this Court assume complete jurisdiction over this action and exclude any further proceedings in State Court.

DATED this 6th day of April, 2021.

MORGAN, MINNOCK, RICE & MINER, L.C.

/s/ Mitchel T. Rice
Mitchel T. Rice
Andrea M. Keysar
Marianne Schumann
Attorneys for Defendant Walmart Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2021, I caused a true and correct copy of the foregoing **NOTICE OF REMOVAL** to be served via the Court's electronic filing system, and USPS first-class mail, postage pre-paid, to the following:

David S. Head dhead@headlawusa.com
HEAD LAW, PLLC
111 East 5600 South, Ste. 100
Murray, Utah 85107
Attorneys for Plaintiff Vania Schmidt

/s/ Krystal Day
Paralegal